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FISCAL IMPACT STATEMENT

LS 6674
BILL NUMBER: SB 226

NOTE PREPARED: Jan 31, 2012
BILL AMENDED: Jan 30, 2012

SUBJECT: School Financial Management.

FIRST AUTHOR: Sen. Miller
FIRST SPONSOR: Rep. Speedy

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: *School Debt Levies*: This bill removes until January 1, 2016, the petition and remonstrance process requirements and referendum requirements that under current law must be met before a school corporation with a circuit breaker impact of at least 30% may restructure its debt.

General Fund Transportation: This bill provides that before January 1, 2016, costs attributable to transportation may be budgeted in and paid from a school corporation's general fund.

Distressed Schools: The bill reduces the number of members on the Distressed Unit Appeal Board (DUAB) to five members: (1) the Director of the Office of Management and Budget (OMB); (2) the Commissioner of the Department of Local Government Finance (DLGF); (3) the State Examiner of the State Board of Accounts (SBA); (4) the Superintendent of Public Instruction; and (5) an individual appointed by the chair of the Legislative Council.

The bill allows a school corporation to petition the DUAB to have the school corporation designated as a distressed school corporation. It provides that if the DUAB receives such a petition, the DUAB may designate the school corporation as a distressed school corporation if any of the following conditions are satisfied: (1) The school corporation has issued refunding bonds under the statute that allows a school corporation with a circuit breaker tax credits impact of at least 30% to restructure its debt (or has adopted the ordinance necessary to initiate the refunding process). (2) The school corporation has had two successive general fund referenda fail. (3) The school corporation has been severely affected, as determined by the DUAB, as a result of the granting of circuit breaker tax credits.

This bill establishes the Distressed School Fund and allows the DUAB to authorize a loan to a distressed school corporation from the fund. It provides that a loan from the fund is subject to review by the State Budget Committee and approval by the Budget Agency. The bill provides that the Budget Agency may not make such a loan after December 31, 2015. It appropriates $10,000,000 from the state General Fund to the Distressed School Fund. The bill provides that the amounts appropriated may be used by the Budget Agency only for the purposes of making loans authorized from the Distressed School Fund.

School Transportation Program: The bill provides that a school corporation that carried out a general program in at least one school year beginning after June 30, 2010, to provide transportation to and from school for eligible students must carry out a program to provide transportation to and from school, unless the governing body of the school corporation: (1) approves the termination of the transportation program; and (2) provides public notice of the termination; at least three years before the date after which the transportation will no longer be provided. It allows the Department of Education to waive these requirements if the Department determines that a transportation plan presented by the school corporation, with or without revisions required by the Department: (1) will protect the safety of eligible students enrolled in the school corporation; and (2) is otherwise in accordance with applicable law.

School Bus Replacement Fund: The bill also provides that the DLGF may upon petition by a school corporation adjust the school corporation's levy for the school bus replacement fund to reflect the school corporation's school bus acquisition plan. It specifies that in addition to the amount that a school corporation may levy for a year under the school corporation's school bus replacement fund maximum levy, the school corporation may also levy an additional amount for 2013, 2014, and 2015 equal to a percentage of the pension neutrality line item, if any, for the school corporation's school bus replacement fund budget order for the 2011 budget year.

Effective Date: Upon passage; July 1, 2012.

Explanation of State Expenditures: *Distressed Schools*: Currently, the DUAB is comprised of nine members including the executives of OMB, DLGF, SBA, and the Department of State Revenue, plus four members appointed by the Governor and one member appointed by the House Speaker. The DUAB was established to receive petitions from taxing units for relief from circuit breaker credit losses but has ceased to function as a result of the passage of the constitutional amendment to cap property taxes.

Under this bill, the DUAB would have five members including the executives of the OMB, DLGF, and SBA, the Superintendent of Public Instruction, and an appointee of the Chairperson of the Legislative Council. DUAB members are entitled to reimbursement of travel and other actual expenses.

Under current law, a distressed unit may petition the Indiana Tax Court for a judicial review of a DUAB final determination. Under this bill, a school corporation could petition the Tax Court to review a DUAB determination regarding the corporation's distressed status.

The bill creates the Distressed School Fund and appropriates $10 M to the fund from the state General Fund from July 1, 2012 through December 31, 2015. Money in the fund may be used only to make loans to distressed schools through December 31, 2015.

School Transportation Program: The state could incur some costs in processing waivers for school transportation by local schools. The impact would depend on the number of waivers that are requested. The

Department of Education is also required to hold a public hearing on the waiver at the school corporation requesting the waiver. The fiscal impact is probably minor.

Explanation of State Revenues:

Explanation of Local Expenditures: *School Transportation Program*: The waiver process might make it more difficult for a school corporation to terminate their student transportation services. For FY 2011, schools spent about $522.4 M from their transportation funds.

General Fund Transportation: The bill would allow schools to pay for transportation expenditures from the school general fund through December 31, 2015. The bill would increase a school's flexibility to fund transportation. As of December 30, 2010, schools had an operating balance of about $674.4 M in their general funds.

Explanation of Local Revenues: *School Debt Levies*: Under current law, certain school corporations are permitted to transfer certain amounts from their debt service levies to their capital projects, transportation, and school bus replacement funds. Eligible school corporations include corporations that have circuit breaker losses from all funds that are at least 30% of the levies in the nondebt funds (i.e., capital projects, transportation, school bus replacement, and racial balance). Eligible schools may currently refinance up to 50% of their existing bonds for a period not exceeding 10 years past the original term. The difference between the old debt service levy and the levy for the refinanced bond (or 0 for a retired bond) is the incremental levy amount and may be transferred, up to the amount of the circuit breaker losses, to the other funds.

Under current law, if a school corporation's loss is at least 30% and up to 45% of nondebt levies, the refinancing is subject to the referendum process. There are 18 school corporations with losses between 30% and up to 45% Also under current law, if the loss is greater than 45%, the refinancing is subject to the petition and remonstrance process. There are 13 school corporations with losses greater than 45%. Under this bill, the refinancing would not be subject to either process if an ordinance is adopted by December 31, 2015. This provision would speed the process for eligible school corporations.

Distressed Schools: Under current law, a taxing unit that loses at least 5% of its property tax revenue in a calendar year due to the circuit breaker caps is a distressed political subdivision (distressed unit). The fiscal body of a distressed unit may petition the DUAB for relief from the caps. This bill would remove the statutory language regarding the DUAB's authority to provide relief from the circuit breaker caps.

Under the bill, a school corporation could be designated as a distressed school corporation only after the DUAB accepts a petition from the school corporation's governing body and the DUAB finds that at least one of several adverse conditions exists. Before January 1, 2016, the DUAB may authorize a loan to distressed school corporations from the Distressed School Fund. If the DUAB authorizes a loan, the distressed school may apply to the Budget Agency for the loan. Loans would carry an interest rate not exceeding the prime rate minus 1% and would have to be repaid within 10 years. The bill could increase the short-term revenue for eligible school corporations through loans from the state than would have to be repaid in the future.

School Bus Replacement Fund: Prior to 2012, the levy limit for the school bus replacement fund was based on the estimated cost to replace the school's bus fleet over a 12-year period. Under current law, for taxes payable in CY 2012, the DLGF must set the maximum levy based on reasonable needs and whether the school corporation transferred money from the fund to the rainy day fund in a previous year. Also under current law, beginning with taxes payable in CY 2013, the levy growth will be limited to the income-based assessed value growth quotient (AVGQ).

Beginning with taxes payable in 2013 under the bill, school corporations would be permitted to petition the DLGF for an increase in the maximum permissible levy for the school bus replacement fund to reflect the school corporation's school bus acquisition plan.

Also under the bill, school corporations that have pension bonds would be permitted to increase their school bus replacement fund levy for three years by a percentage of the 2011 pension neutrality amount applicable to that fund. The allowable increase would equal 75% of the pension neutrality amount in 2013, 50% in 2014, and 25% in 2015. According to the DLGF, the total pension neutrality amount applicable to the school bus replacement fund equals about $86 M. So, the additional levy allowed statewide is estimated at $64.5 M in 2013, $43 M in 2014, and $21.5 M in 2015.

An increase in property tax levies would cause tax rates to increase and could result in an increase in circuit breaker losses for the affected school corporations and the civil taxing units that intersect with them.

State Agencies Affected: Department of Education; Distressed Unit Appeals Board; Department of Local Government Finance.

Local Agencies Affected: Local schools; Civil taxing units.

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